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15 Attorneys for Defendant and Counterclaimant  
16 AXURE SOFTWARE SOLUTIONS, INC.

17  
18 IN THE UNITED STATES DISTRICT COURT  
19 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
20 WESTERN DIVISION

21 IRISE, a California corporation,  
22 Plaintiff,  
23 v.  
24 AXURE SOFTWARE SOLUTIONS,  
25 INC., a California corporation; and  
26 INTEGRATED ELECTRICAL  
SERVICES, INC., a Delaware  
corporation,  
27 Defendants.

28 } Case No. 08-CV-03601 SJO (JWJx)  
} }  
} STIPULATED PROTECTIVE  
} ORDER  
} } NOTE CHANGES BY THE COURT  
} }  
} }

1       AXURE SOFTWARE SOLUTIONS,                              )  
2            INC., a California corporation,                  )  
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v.  
IRISE, a California corporation,  
Counterdefendant.)

1       Whereas pretrial discovery in this action involving Plaintiff and  
2 Counterdefendant iRISE (“iRise”) and Defendant and Counterclaimant AXURE  
3 SOFTWARE SOLUTIONS, INC. (“Axure”), shall necessarily involve the  
4 disclosure of trade secrets or confidential research, development, or commercial  
5 information of the parties and of non-parties from whom discovery may be  
6 sought; and

7       Whereas iRise and Axure stipulate pursuant to Rule 26(c) of the Federal  
8 Rules of Civil Procedure – subject to the approval of the Court – to the  
9 following Protective Order:

10      **1. Scope of Protection.**

11      1.1 This Protective Order shall govern any information, document or  
12 thing designated pursuant to Paragraph 2 of this Protective Order, produced in  
13 this case, including all designated deposition testimony, all designated  
14 testimony taken at a hearing or other proceeding, all designated interrogatory  
15 answers, documents and other discovery materials and things, whether produced  
16 informally or in response to interrogatories, requests for admissions, requests for  
17 production of documents or other formal method of discovery.

18      1.2 This Protective Order shall also govern any designated information,  
19 document or thing produced in this case pursuant to required disclosures under  
20 any federal procedural rule, local rule, and any supplementary disclosures  
21 thereto.

22      1.3 This Protective Order shall apply to the parties and any nonparty  
23 from whom discovery is sought and who desires the protection of this Protective  
24 Order.

25      1.4 This Protective Order shall be binding upon the parties and their  
26 attorneys, successors, executors, personal representatives, administrators, heirs,  
27 legal representatives, assigns, subsidiaries, divisions, employees, agents,  
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1 independent contractors, or other persons or organizations over which they have  
2 control.

3       **2. Designation.**

4           2.1 Each party shall have the right to designate as “Confidential” and  
5 subject to this Protective Order any information, document or thing produced by  
6 it in this case which contains, reflects, or otherwise discloses confidential  
7 technical, business and/or financial information. This designation shall be made  
8 by marking each page or thing containing Confidential information with the  
9 legend CONFIDENTIAL (or like designation) prior to its production or, if  
10 inadvertently produced without such legend, pursuant to the procedure set forth  
11 in Paragraph 15.

12           2.2 Each party shall have the right to designate as “Attorneys’ Eyes  
13 Only,” restricted to review by outside attorneys and others specified in  
14 Paragraph 4.2 only and subject to this Protective Order, any information,  
15 document or thing produced in this case which contains, reflects or otherwise  
16 discloses trade secrets, current research and development or other competitively  
17 sensitive information. Such “Attorneys’ Eyes Only” information, documents  
18 and things may include, without limitation, currently competitive trade secrets,  
19 confidential technical information, technical practices, methods, or other know-  
20 how, minutes of Board meetings, pricing data, financial data, sales information,  
21 customer-confidential information, agreements or relationships with non-parties,  
22 market projections or forecasts, strategic business plans, selling or marketing  
23 strategies or new product development, testing, manufacturing costs or  
24 information about employees. This designation shall be made by marking each  
25 page or thing containing Attorneys’ Eyes Only information with the legend  
26 ATTORNEYS’ EYES ONLY (or like designation) prior to its production or, if  
27 inadvertently produced without such legend, pursuant to the procedure set forth  
28 in Paragraph 14.

1           2.3 The parties will use reasonable care to avoid designating any  
2 information, documents or things Confidential that are generally available to the  
3 public. The parties will also use reasonable care to avoid designating any  
4 information, documents or things “Confidential” or “Attorneys’ Eyes Only” for  
5 which the designating party does not have a good faith belief that the  
6 information, documents or things satisfy the criteria set forth in this Paragraph.  
7 To the extent that material is marked “Confidential” or “Attorneys’ Eyes Only”  
8 (collectively “Designated Information”), such material shall be revealed to or  
9 used only by persons authorized to receive Designated Information pursuant to  
10 Paragraph 4 and shall not be communicated in any manner, either directly or  
11 indirectly, to any person or entity not permitted disclosure pursuant to this  
12 Protective Order. Any copies of such material, abstracts, summaries or  
13 information derived therefrom, and any notes or other records regarding the  
14 contents thereof shall also be deemed Confidential or Attorneys’ Eyes Only and  
15 the same terms regarding confidentiality of these materials shall apply as apply  
16 to the originals.

17           2.4 With respect to all materials provided for inspection by a party’s  
18 counsel, designation need not be made until copies of the materials are  
19 requested after inspection and selection by counsel. Making documents and  
20 things available for inspection shall not constitute a waiver of any claim of  
21 confidentiality, and all materials provided for inspection by a party’s counsel  
22 shall be treated as though designated Attorneys’ Eyes Only from the time of the  
23 inspection until otherwise designated pursuant to this Protective Order or  
24 produced without a designation.

25           **3. Limit on Use and Disclosure of Designated Information.**

26           3.1 All recipients of Confidential or Attorneys’ Eyes Only information  
27 pursuant to this Protective Order shall use any Designated Information governed  
28 by this Protective Order only in connection with the prosecution or defense of

1 this case, and for no other purpose whatsoever, except by consent of the parties  
2 or order of the Court and shall maintain the Designated Information with  
3 appropriate safeguards in accordance with the terms of this Protective Order. No  
4 party or other person shall disclose or release to any person not authorized under  
5 this Protective Order any Designated Information governed by this Protective  
6 Order for any purpose, or to any person authorized under this Protective Order  
7 for any other purpose. The party or parties receiving Designated Information  
8 shall not under any circumstances sell, offer for sale, advertise, or publicize  
9 Designated Information or any information contained therein.

10       3.2 Counsel for a party may give advice and opinions to his or her  
11 client regarding this litigation based on his or her evaluation of designated  
12 “Confidential” or “Attorneys’ Eyes Only” information received by the party —  
13 provided that such rendering of advice and opinions shall not reveal the content  
14 of such Designated Information except by prior written agreement with counsel  
15 for the producing party. Counsel receiving “Confidential” or “Attorneys’ Eyes  
16 Only” information may not use such Designated Information to provide advice  
17 or opinions to facilitate prosecution of any patents or to otherwise attempt to  
18 secure patent claims (*e.g.*, reissue, reexamination, and certificates of correction).

19       3.3 Any outside counsel, expert or consultant employed by the  
20 receiving party who reviews Attorneys’ Eyes Only information produced by the  
21 producing party shall maintain a log of the specific Bates labeled pages, items,  
22 or portions thereof that were reviewed. Such log shall not be required to be  
23 disclosed to any party other than the party that produced the Attorneys’ Eyes  
24 Only information, and shall be disclosed to that producing party only following  
25 the conclusion of the litigation within 30 days of a request for the log by the  
26 producing party. Such reviewing person shall not, in any continuation,  
27 divisional, original, reexamination, or reissue application related to  
28 programming environments for simulations of computer applications, draft,

1 prosecute, or otherwise assist in the preparation or prosecution of any patent  
2 claims related to systems and methods for simulations of computer applications  
3 that would be infringed, either directly, contributorily or by inducement, literally  
4 or by equivalents, by any method or apparatus disclosed in the Attorneys' Eyes  
5 Only information reviewed by that person as disclosed in the log.

6           a.     The prosecution bar set forth in this Paragraph 3.3 shall  
7 expire for each such person one year after the earlier of: (i) the entry of a  
8 final non-appealable or non-appealed judgment as to the party that such  
9 person represents; or (ii) the complete settlement of all claims or  
10 counterclaims related to United States Patent No. 7,349,837 as to the  
11 party that such person represents.

12           b.     The prosecution bar set forth in this Paragraph 3.3 shall not  
13 prohibit, restrict, or in any way limit any person's ability to participate in  
14 a reexamination proceeding where such participation is not undertaken on  
15 behalf of an owner of the patent.

16       3.4    The attorneys of record for the parties and other persons receiving  
17 Designated Information governed by this Protective Order shall exercise  
18 reasonable care to ensure that the Designated Information governed by this  
19 Protective Order is (i) used only for the purposes specified herein and  
20 (ii) disclosed only to authorized persons.

21           **4. Disclosure of Designated Information.**

22       4.1    Information, documents or things designated "Confidential" shall  
23 be disclosed by the recipient thereof only to:

24           a.     the outside attorneys of record for the parties and their  
25 partners, attorney employees, and their authorized administrative, clerical  
26 and legal assistant staff;

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- 1                   b. up to five (5) employees, principals, directors or officers of  
2 iRise having responsibility for providing oversight of or assistance in the  
3 litigation;
- 4                   c. up to five (5) employees, principals, directors or officers for  
5 Axure having responsibility for providing oversight of or assistance in the  
6 litigation;
- 7                   d. consultants or experts who are not employees of any party to  
8 this action, and their staffs, retained by the parties or their attorneys for  
9 purposes of this case, subject to the procedures of Paragraph 6;
- 10                  e. the Court and Court personnel;
- 11                  f. court reporters employed in connection with this case;
- 12                  g. outside copying and computer services necessary for  
13 document handling, and other litigation support personnel (*e.g.*, graphic  
14 designers and animators), who are contractually bound not to disclose  
15 such documents and information by the parties retaining them ; and
- 16                  h. translation services necessary for translating documents in  
17 this case.

18                  4.2 Information, documents or things designated “Attorneys’ Eyes  
19 Only” shall be disclosed only to:

- 20                  a. the outside attorneys of record for the parties and their  
21 partners, attorney employees, and their authorized administrative, clerical  
22 and legal assistant staff;
- 23                  b. consultants or experts who are not employees of any party to  
24 this action, and their staffs, retained by the parties or their attorneys for  
25 purposes of this case, subject to the procedures of Paragraph 6;
- 26                  c. the Court and Court personnel;
- 27                  d. court reporters employed in connection with this case;

- 1                   e. outside copying and computer services necessary for  
2 document handling, and other litigation support personnel (*e.g.*, graphic  
3 designers and animators), who are contractually bound not to disclose  
4 such documents and information by the parties retaining them; and  
5                   f. translation services necessary for translating documents in  
6 this case.

7                  4.3 No disclosure of Designated Information shall be made to persons  
8 in Subparagraphs 4.1(b)-(d) and (h) and 4.2(b) and (f) unless such person has  
9 executed a written Confidentiality Undertaking (in the form set forth in  
10 Exhibit A hereto) acknowledging and agreeing to be bound by the terms of this  
11 Protective Order. Copies of such Confidentiality Undertakings shall be served  
12 on the producing party prior to receipt by such persons of any Designated  
13 Information. Separate Confidentiality Undertakings shall not be required for  
14 staff members working under the supervision of an individual signing a  
15 Confidentiality Undertaking. An individual signing a Confidentiality  
16 Undertaking, however, shall accept full responsibility for taking measures to  
17 ensure that staff members working under his or her supervision comply with the  
18 terms of this Protective Order. In any case, the provisions of Paragraph 6 must  
19 be followed prior to any disclosure of Confidential or Attorneys' Eyes Only  
20 information to experts, consultants or their staff.

21                 4.4 If any Designated Information is disclosed to any person other than  
22 in a manner authorized by this Protective Order, the party responsible for the  
23 disclosure or knowledgeable of such disclosure shall, immediately on discovery  
24 of that disclosure, inform the producing party of all facts pertinent to the  
25 disclosure and make all reasonable efforts to prevent further disclosures by each  
26 unauthorized person who received such information.

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1           **5. Computer Source and Other Code.**

2       5.1 Each party shall have the right to designate any computer source  
3 code, executable code, microcode, RTL, HDL or other hardware description  
4 language documents, and copies thereof, under the provisions of Paragraph 5.3,  
5 as HIGHLY SENSITIVE CODE. Information, documents and things so  
6 designated will be subject to all of the restrictions as material designated as  
7 Attorneys' Eyes Only and further will be subject to the following additional  
8 restrictions and provisions.

9       5.2 Code or other materials designated under Paragraph 5.1 shall be  
10 produced in one of two ways as set forth below in Subparagraphs (a) and (b), at  
11 the election of the producing party:

12           a. The producing party shall provide any source code or other  
13 materials designated under Paragraph 5.1 on CD-ROM (or on such other  
14 format as may be necessary and agreed to by the requesting party),  
15 organized on the CD-ROM by software release version. One copy of the  
16 CD-ROM shall be produced to the requesting trial counsel, and kept at  
17 the offices of trial counsel, maintained in a locked cabinet or the like. In  
18 addition, one copy for each qualified consultant or expert pursuant to  
19 Paragraph 6 designated by trial counsel to review the materials may be  
20 made and may be maintained in a locked cabinet or the like at the expert's  
21 worksite. No additional copies shall be made. Counsel of record and each  
22 qualified consultant or expert receiving materials designated under  
23 Paragraph 5.1 (together, the reviewing parties) may load the materials  
24 onto a stand-alone, non-networked, password protected computer, which  
25 shall not be connected to any peripheral device other than a monitor,  
26 keyboard, and mouse. While in use, the computer and such designated  
27 materials shall not be left unattended by a reviewing party. When not in  
28 use, the computer shall be stored securely in a locked cabinet or room.

1       The reviewing party is permitted to load any special software that he or  
2       she may deem necessary to conduct an appropriate inspection or analysis  
3       of the materials, such software to be provided by the reviewing party. The  
4       reviewing party agrees that it will not use software not reasonably  
5       necessary to efficiently conduct an appropriate review and analysis of the  
6       materials designated under Paragraph 5.1. The reviewing party will  
7       identify for the producing party prior to loading it into the computer any  
8       special software to be used to conduct an inspection or analysis of the  
9       designated materials. Should the CD-ROM become damaged, the  
10      producing party shall exchange the damaged CD-ROM for an undamaged  
11      CD-ROM.

12           b.     Alternatively, the producing party may at its own expense  
13       provide a convenient secure facility or facilities at which the reviewing  
14       parties may conduct their review. Facilities will be provided in not more  
15       than two locations such that the material will be made available in an  
16       agreed location or locations proximate and convenient to the location of  
17       (1) trial counsel and (2) one qualified consultant or expert pursuant to  
18       Paragraph 6 designated by trial counsel to review the materials. These  
19       locations may be changed by mutual agreement of the producing and  
20       receiving party in the event of changed circumstances, which agreement  
21       will not be unreasonably withheld. The materials designated under  
22       Paragraph 5.1 shall be made available for inspection, with two hours  
23       advance notice, at any time during normal business hours, or, with  
24       twenty-four hours advance notice, at any other time during which  
25       reviewing parties may wish to conduct their review. The producing party  
26       shall provide a stand-alone computer system deemed suitable by the  
27       requesting party for use in reviewing and analyzing the designated  
28       materials. The producing party shall permit the reviewing party to load

1       any special software that he or she may deem necessary to conduct an  
2 appropriate inspection or analysis of the materials, such software to be  
3 provided by the reviewing party. The reviewing party agrees that it will  
4 not use software not reasonably necessary to efficiently conduct an  
5 appropriate review and analysis of the materials designated under  
6 Paragraph 5.1. The reviewing party will identify for the producing party  
7 prior to loading it into the computer any special software to be used to  
8 conduct an inspection or analysis of the designated materials. No  
9 electronic copies of the materials designated under Paragraph 5.1 and  
10 produced at the secure facility may be made and removed from the secure  
11 facility by a reviewing party without the express written consent of the  
12 producing party.

13      5.3 A reviewing party shall be entitled to make printouts in paper form  
14 of as many lines of source code as they deem reasonably necessary for use as an  
15 exhibit at deposition, to prepare an expert report, as an exhibit to a filing with  
16 the Court, or as an exhibit at trial. If the producing party has elected to use the  
17 procedure set out in Paragraph 5.2(b) then the secure facility shall include a  
18 means for a reviewing party to make printouts promptly at the time of his or her  
19 inspection. The producing party may, at the producing party's election, either  
20 (i) permit the reviewing party to immediately remove such printouts, in which  
21 case it shall be the responsibility of the requesting party to promptly have such  
22 printouts marked with a legend designating them as "HIGHLY SENSITIVE  
23 CODE," or (ii) retain and mark such printouts with a legend designating them as  
24 "HIGHLY SENSITIVE CODE" and produce them to the reviewing party by  
25 hand delivery within no longer than 24 hours after printing. All such printouts  
26 shall be stored securely in a locked cabinet when not in use. No further copies  
27 shall be made except as set out below in Paragraph 5.4.

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1       5.4 The receiving party is permitted to make such copies as are  
2 necessary for reasonable consultation between counsel and/or qualified  
3 consultants or experts, for use as an exhibit at deposition, to prepare an expert  
4 report, as an exhibit to a filing with the Court, or as an exhibit at trial. The  
5 receiving party shall avoid such use except as necessary to meet its burden of  
6 proof, and shall take all reasonable steps necessary to restrict the dissemination  
7 of such copies. If a producing party so requests, any materials designated under  
8 Paragraph 5.1 and used as exhibits in a deposition shall not be appended to the  
9 transcript of the deposition, in which case any objection is waived by any party  
10 as to the identity of the deposition exhibit if cited or relied upon in any  
11 subsequent expert report, motion, or at trial. At the conclusion of each day of a  
12 deposition in which any materials designated under Paragraph 5.1 are used, the  
13 receiving party shall collect each copy of the materials, including the copy  
14 marked by the court reporter if the producing party has so requested, and no one  
15 other than the receiving and producing party may remove copies of materials  
16 designated under Paragraph 5.1 from the deposition room.

17      5.5 If any party intends to file or otherwise submit to the Court any  
18 material designated under Paragraph 5.1, or offer any evidence at trial based on  
19 the materials designated under Paragraph 5.1, the party shall take appropriate  
20 measures to preserve the confidentiality of the designated material including but  
21 not limited to filing such material under seal, as set forth in Paragraph 11 below.

22      5.6 Within 30 days of the conclusion of the litigation:

23       a. All copies of materials designated under Paragraph 5.1 must  
24 be returned to the producing party, except any copies in the custody of the  
25 Court.

26       b. Notwithstanding the provisions above, outside counsel may  
27 retain for archive purposes one (1) magnetic and one (1) paper copy of all  
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1        pleadings exchanged by the parties or filed with the Court that contain  
2        excerpts of materials designated under Paragraph 5.1.

3        **6. Identification of Experts and Limitation on Expert Discovery.**

4        6.1      Before any party discloses information designated Confidential or  
5        Attorney's Eyes Only to any expert or consultant pursuant to Paragraph 4  
6        above, it must first identify in writing to the attorneys for the producing party  
7        each such expert or consultant. Such identification shall include the full name  
8        and professional address and/or affiliation of the proposed expert or consultant,  
9        an up-to-date curriculum vitae, a list of the proposed expert or consultant's past,  
10       current and anticipated consulting or other employment relationships, a list of  
11       the cases in which the expert or consultant has testified at a deposition or at trial  
12       within the last four years and all prior and/or present relationships between the  
13       expert or consultant and the parties in this case. Experts or consultants to whom  
14       Confidential or Attorney's Eyes Only information is to be disclosed shall not be  
15       otherwise engaged in providing services to any party or a party's competitor  
16       concerning systems and methods for simulations of computer applications.

17       6.2      The attorney for the producing party shall have five (5) business  
18       days from receipt of such notice to object to disclosure of such information to  
19       any of the experts or consultants so identified. Objections shall not be made  
20       except where the objecting party has a good faith belief that it may be harmed  
21       by the disclosure of the party's information. Any objection made to an opposing  
22       party shall state in detail the basis for the objection. If no objection is made  
23       within the five (5) business day period, the consultant or expert shall be  
24       permitted to receive Confidential or Attorney's Eyes Only information pursuant  
25       to the terms of this Protective Order.

26       6.3      The parties shall attempt to resolve any objections informally. If  
27       the objections cannot be resolved, the objecting party may move the Court for  
28       an Order preventing disclosure to the consultant or expert within ten (10)

1 business days after the objection was made. If any such motion is made, the  
2 objecting party shall bear the burden of proof. If no such motion is made within  
3 said ten (10) business day period, the consultant or expert shall be permitted to  
4 receive Confidential or Attorneys' Eyes Only information pursuant to the terms  
5 of this Protective Order. In the event objections are made and not resolved  
6 informally and a motion is filed, disclosure of information to the expert or  
7 consultant shall not be made except by Order of the Court (or to any limited  
8 extent upon which the parties may agree).

9       6.4 A testifying expert's draft reports, notes, outlines, and any other  
10 writings leading to his or her final report in this case are exempt from discovery.  
11 In addition, all communications with, and all materials generated by, a testifying  
12 expert with respect to his or her work, are exempt from discovery unless relied  
13 upon by the expert in forming his or her opinions.

14       **7. Related Documents.**

15       Information, documents or things designated "Confidential" or  
16 "Attorneys' Eyes Only" may include (i) portions of documents, copies, extracts,  
17 and complete or partial summaries prepared from or containing such  
18 information; (ii) portions of deposition transcripts and exhibits thereto which  
19 contain or reflect the content of any such documents, copies, extracts or  
20 summaries; (iii) portions of briefs, memoranda or any other papers filed with the  
21 Court and exhibits thereto which contain or reflect the content of any such  
22 documents, copies, extracts, or summaries; and/or (iv) deposition testimony  
23 designated in accordance with Paragraph 8.

24       **8. Designation of Hearing Transcripts and Deposition Transcripts  
25 and Exhibits.**

26       8.1 Deposition transcripts, or portions thereof, may be designated as  
27 containing Confidential or Attorneys' Eyes Only information subject to this  
28 Protective Order either (i) at the time of such deposition, in which case the

1 transcript of the designated testimony shall be marked by the reporter with the  
2 appropriate legend (*see Paragraphs 2.1 and 2.2*) as the designating party may  
3 direct, or (ii) within twenty (20) business days after receipt of the official  
4 transcript of the deposition by providing written notice to the reporter and all  
5 counsel of record of the specific pages and lines that contain Confidential or  
6 Attorneys' Eyes Only information, in which case all counsel receiving such  
7 notice shall mark the copies or portions of the designated transcript in their  
8 possession or under their control as directed by the designating party.

9       8.2 All deposition transcripts not previously designated shall be  
10 deemed to be, and shall be treated as, Attorneys' Eyes Only for a period of  
11 fifteen (15) business days after receipt of the official transcript of the deposition,  
12 and the transcript shall not be disclosed by a nondesignating party to persons  
13 other than those persons named or approved according to Paragraph 4.2 during  
14 that period. Any portions of such transcripts not designated within this time  
15 frame shall not thereafter be treated as Confidential or Attorneys' Eyes Only  
16 information, except by order of the Court.

17       8.3 Any party may mark any document or thing containing  
18 Confidential or Attorneys' Eyes Only information as an exhibit to a deposition,  
19 hearing or other proceeding, provided the witness is qualified under the terms of  
20 this Protective Order to have access to such designated material.

21       8.4 The designating party shall have the right to exclude from a  
22 deposition, before the taking of testimony which the designating party  
23 designates Confidential or Attorneys' Eyes Only and subject to this Protective  
24 Order, all persons other than those persons previously qualified to receive such  
25 information pursuant to Paragraph 4.

26       8.5 At any court hearing or proceeding no party is prevented by this  
27 Protective Order from moving the Court to close the hearing and designate all or  
28 portions of the transcript as Confidential or Attorneys' Eyes Only information.

1           **9. Disclosure to Author or Recipient.**

2           Notwithstanding any other provisions of this Protective Order, nothing  
3 herein shall prohibit counsel or a party from disclosing a document containing  
4 information designated Confidential or Attorneys' Eyes Only to any current  
5 employee or principal of the producing party or to any person that the document  
6 clearly identifies as an author, addressee, or recipient of such document or who  
7 can be shown by appropriate foundation (without disclosing the contents of the  
8 document) would have received the particular document or would have been  
9 expected to know the contents of particular document based on his/her position.  
10 Regardless of the designation pursuant to this Protective Order, if a document or  
11 testimony makes reference to the actual or alleged conduct or statements of a  
12 person who is a potential witness, counsel may discuss the subject matter of  
13 such conduct or statements with such witness without revealing any portion of  
14 the contents of the document or testimony, and such discussion shall not  
15 constitute disclosure in violation of this Protective Order.

16           **10. Confidentiality of Party's Own Documents.**

17           Nothing herein shall affect the right of the designating party to disclose to  
18 its officers, directors, employees, attorneys, consultants or experts, or to any  
19 other person, its own information. Such disclosure shall not waive the  
20 protections of this Protective Order and shall not entitle other parties or their  
21 attorneys to disclose such information in violation of it, unless by such  
22 disclosure by the designating party the information becomes public knowledge.  
23 Similarly, the Protective Order shall not preclude a party from showing its own  
24 information to its officers, directors, employees, attorneys, consultants or  
25 experts, or to any other person, which information has been filed under seal by  
26 the opposing party.

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1           **11. Filing of Documents Designated Under This Order; Sealed  
2 Filings Authorized.**

3           Any information designated Confidential or Attorneys' Eyes Only, if filed  
4 with the Court, shall be filed under seal and shall be made available only to the  
5 Court and to persons authorized by the terms of this Protective Order. The party  
6 filing any paper which reflects, contains or includes any other party's  
7 Confidential or Attorneys' Eyes Only information subject to this Protective  
8 Order shall file such paper in compliance with and pursuant to the pertinent  
9 local rules where the paper is being filed. The parties are authorized under this  
10 continuing protective order to file any information designated Confidential or  
11 Attorneys' Eyes Only under seal. A Notice of Filing/Lodging Under Seal must  
12 be submitted for filing. The sealed document(s) must be presented in the proper  
13 form as specified under Local Rule 79-5.1 at the same time the Notice is filed.  
14 Counsel must submit either a copy of this protective order or, under the case  
15 number of the title page, type "Filed Under Seal Pursuant To Protective Order  
16 Dated \_\_\_\_." (See Preparing Sealed Documents on Civil Cases, 7/17/2008,  
17 available at [www.cacd.uscourts.gov](http://www.cacd.uscourts.gov), Filing Procedures tab).

18           **12. Challenge to Confidentiality.**

19           12.1 This Protective Order shall not preclude any party from seeking  
20 and obtaining, on an appropriate showing, such additional protection with  
21 respect to the confidentiality of documents or other discovery materials as that  
22 party may consider appropriate. Nor shall any party be precluded from  
23 (i) claiming that any matter designated hereunder is not entitled to the  
24 protections of this Protective Order, (ii) applying to the Court for an order  
25 permitting the disclosure or use of Designated Information otherwise prohibited  
26 by this Protective Order, or (iii) applying for a further order modifying this  
27 Protective Order in any respect. No party shall be obligated to challenge the  
28

1 propriety of any designation, and failure to do so shall not preclude a subsequent  
2 challenge to the propriety of such designation.

3       12.2 If a party seeks de-designation of particular items the following  
4 procedure shall be utilized:

5           a.     The party seeking such de-designation shall give counsel of  
6 record for the designating party written notice thereof specifying the  
7 Designated Information as to which such removal is sought and the  
8 reasons for the request; and

9           b.     If, after conferring, the parties cannot reach agreement  
10 concerning the matter within five (5) business days after the delivery and  
11 receipt of the notice, then the party requesting the de-designation of  
12 particular items may file and serve a motion for a further order of this  
13 Court directing that the designation shall be so removed. On any such  
14 motion, the burden of proof shall lie with the producing party to establish  
15 that the information is, in fact, properly designated as Confidential or  
16 Attorneys' Eyes Only information and the receiving party shall establish  
17 that the information is an appropriate target of discovery.

18       **13. Inadvertent Disclosure Of Privileged Information.**

19       The procedures set forth in Rule 26(b)(5)(B) of the Federal Rules of Civil  
20 Procedure shall govern in the event of a claim of inadvertently produced  
21 privileged information. Production of privileged material without an express  
22 written notice of intent to waive the attorney-client or work product protection  
23 shall not be deemed a waiver of the attorney-client privilege or work product  
24 protection so long as the producing party timely informs the receiving party of  
25 the identity of the materials mistakenly produced after learning of the mistaken  
26 production.

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1           **14. Inadvertent Failure to Designate.**

2           A producing party or nonparty that inadvertently fails to designate  
3 information, documents or things pursuant to this Protective Order at the time of  
4 production may hereafter make a designation pursuant to this Protective Order  
5 by serving notice thereof in writing accompanied by substitute copies of each  
6 item, appropriately designated, to the receiving party within five (5) business  
7 days of discovery that the information, documents or things were not properly  
8 designated. The receiving party shall not be in violation of this Protective Order  
9 for disclosures made prior to receipt of notification. Those individuals who  
10 reviewed the information, documents or things prior to the notice of  
11 misdesignation or failure to designate by the producing party shall return to  
12 counsel for the producing party or destroy and certify destruction of all copies of  
13 the misdesignated information, documents or things within ten (10) business  
14 days after receipt of such notification.

15           **15. Prior or Public Knowledge.**

16           This Protective Order shall not apply to information that, prior to  
17 disclosure, is public knowledge, and the restrictions contained in this Protective  
18 Order shall not apply to information that is, or after disclosure becomes, public,  
19 was in the possession of the party to whom disclosure is made prior to  
20 disclosure or is public knowledge other than by an act or omission of the party  
21 to whom such disclosure is made, or that is legitimately and independently  
22 acquired from a source not subject to this Protective Order.

23           **16. Limitation of Protective Order.**

24           Nothing in this Protective Order is intended to alter the discovery  
25 provisions of the Federal Rules of Civil Procedure, the Local Rules, or any  
26 Discovery Order issued by the Court. This Protective Order is not intended to  
27 address discovery objections to produce, answer, or respond on the grounds of  
28 attorney-client privilege, work product immunity, and/or other immunity, or to

1 preclude any party from seeking further relief or protective orders from the  
2 Court as may be appropriate under the Federal Rules of Civil Procedure.

3 **17. Other Proceedings.**

4 If Designated Information in the possession, custody or control of any  
5 receiving party is sought by subpoena, request for production of documents,  
6 interrogatories, or any other form of discovery request or compulsory process,  
7 the receiving party to whom the discovery request or compulsory process is  
8 directed shall within three business days after receipt thereof give written notice  
9 by hand, certified mail, facsimile or electronic transmission of such discovery  
10 request or compulsory process to the producing party, and provide the  
11 producing party with a copy of the discovery request or compulsory process. If  
12 the producing party timely makes a motion to quash, and to the extent permitted  
13 by law, the receiving party shall withhold such Designated Information until  
14 disposition of any such motion to quash.

15 **18. Non-Party Material.**

16 The terms of this Protective Order are applicable to Confidential,  
17 Attorneys' Eyes Only or Highly Sensitive Code information provided by a non-  
18 party. Information provided by a nonparty in connection with this case and  
19 designated Confidential, Attorneys' Eyes Only or Highly Sensitive Code  
20 pursuant to the terms of this Protective Order shall be protected by the remedies  
21 and relief provided by this Protective Order.

22 **19. Return of Designated Information.**

23 Within ninety (90) calendar days after the final termination of the this  
24 action by unappealable judgment, exhaustion of all appeals or settlement, unless  
25 otherwise agreed to in writing by an attorney of record for the designating party,  
26 each party shall assemble and return, or certify destruction of, all Designated  
27 Information and all other materials containing Designated Information,  
28 including all copies, extracts and summaries thereof, to the party from whom the

1 designated material was obtained, except that any documents or copies which  
2 contain, constitute or reflect attorney work product, attorney-client privilege  
3 communications, and/or other immune communications may be retained by  
4 counsel, subject to a continuing obligation to protect Designated Information  
5 pursuant to this Protective Order.

6 **20. Waiver or Termination of Protective Order.**

7 No part of the restrictions imposed by this Protective Order may be  
8 waived or terminated, except by written stipulation executed by counsel of  
9 record for each designating party, or by an order of the Court for good cause  
10 shown. After termination of this action, the provisions of this Order shall  
11 continue to be binding, except with respect to those documents and information  
12 that become a matter of public record. ~~This Court retains and shall have  
13 continuing jurisdiction over the parties and recipients of the Designated  
14 Information for enforcement of the provisions of this Order following  
15 termination of the last pending action involving the patent in suit.~~

16 **21. Modification of Protective Order; Prior Agreements.**

17 This Protective Order may be modified, and any matter related to it may  
18 be resolved, by written stipulation of the parties without further order of the  
19 Court. This Protective Order supersedes any agreements between the parties  
20 regarding the confidentiality of Designated Information entered into before the  
21 date of this Protective Order.

22 **22. Paragraph Captions.**

23 The title captions for each paragraph of this Protective Order are for  
24 convenience only and are not intended to affect or alter the text of the  
25 paragraphs or the substance of the Protective Order.

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## 23. Days.

All references to “days” in this Protective Order shall be construed as calendar days, unless otherwise specifically indicated.

The Court and its personnel shall not be bound by the terms of this stipulation and/or order.

## **IT IS SO STIPULATED:**

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 03/10/09

By: s/  
John W. Holcomb  
Reza Mirzaie  
Attorneys for Plaintiff and Counterdefendant IRISE

## ORRICK, HERRINGTON & SUTCLIFFE LLP

Dated: 03/09/09

By: s/  
Kai Tseng  
James C. Brooks  
Donald E. Daybell  
Mark J. Shean  
Attorneys for Defendant and Counterclaimant  
AXURE SOFTWARE SOLUTIONS, INC.

## IT IS SO ORDERED

Dated: March 12, 2009

/s/

**EXHIBIT A**  
**CONFIDENTIALITY UNDERTAKING**

I have read the Protective Order concerning the confidentiality of information in the above captioned litigation. I understand that the Protective Order is a Court order designed to preserve the confidentiality of certain confidential information. I also understand that the Protective Order restricts the use, disclosure and retention of such confidential information and also requires the safeguarding and return of documents and other materials containing confidential information.

I agree to comply with all provisions of the Protective Order described above with respect to any information designated Confidential or Attorneys' Eyes Only that is furnished to me. I hereby consent to the personal jurisdiction of the United States District Court, Central District of California, for any proceedings involving the enforcement of that Protective Order.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Printed Name

Signature

### **Present Employer/Other Business Affiliation**

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## Business Address

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